

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MORGANNE MILES, by her mother KRYSTAL TITUS,  
et al.,

**08-CV-432 (PAC)**

Plaintiffs,

**ECF CASE**

- against -

**DECLARATION**

MICHAEL O. LEAVITT, as Secretary of the United  
States Department of Health and Human Services,

Defendant.

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**DECLARATION OF AMY MARGARET MCCUTCHIN**

AMY MARGARET MCCUTCHIN declares under penalty of perjury pursuant to  
28 U.S.C. § 1746:

1. I am the mother of Pascale Mossin, age 2½. I respectfully submit  
this declaration in support of this action.

2. My daughter Pascale and I reside at 1 Union Square South, Apt.  
15A, New York, New York 10003.

3. We are being injured because, without the expansion in eligibility  
for the Child Health Plus program (CHPlus) in New York State, I cannot afford quality  
health insurance for my daughter Pascale.

4. I am married, but I have recently separated from my husband, Kyril  
Mossin.

5. I obtained full legal and physical custody of Pascale as of October 23, 2007. Kyril has no income, and I do not receive any child support from him.

6. I am a full-time graduate student pursuing cinema studies at the New York University Tisch School of the Arts. It is a scholarly program looking at the role of the moving image in society. I hope to get a job in television. While I work towards my master's degree, I have been going to auditions, writing treatments, pitching show ideas, and have obtained part-time jobs in order to earn some income for my daughter and myself. I plan to pursue my doctorate degree as well.

7. From November 2005 through December 2006, I was employed part-time as a licensed city tour guide. I had two shifts per week, on and off, since there were clear tourist seasons and clear lulls. It wasn't steady work. In December 2006, between Christmas and New Year's Day, Pascale got sick with the flu. So I had to stay home to take care of my daughter. I couldn't go to work. I called in sick to my job, and they fired me.

8. In July 2007, I became employed part-time on a free-lance basis, writing advertising proposals for a company. I earn \$50 per hour for my services. My income fluctuates based on my assignments.

9. In 2006, while I was working as a licensed city tour guide, my adjusted gross income was \$7,467 for the year, which is less than 100% of the federal poverty level for our family of two. After I was fired, from January 2007 through June 2007, I collected unemployment. From July 2007 through October 2007, I earned some income from my new free-lance work. The company had a huge project due around

Labor Day, so there was a big push leading up the deadline. My free-lance work has been pretty quiet since. So far this year in 2007, my annual income has been approximately \$20,000. This averages out to less than \$1,700 per month to cover the needs of my daughter and myself. I wish that I could bill more hours, but school has to be a priority. I have spent 18 months working towards my master's degree so that I can build a better future for my daughter and myself. I can't sacrifice that for a little more money right now.

10. We have approximately \$3,700 in monthly expenses. I pay roughly \$540 per month on rent for our apartment; \$425 per month on food; \$120 per month on transportation; \$410 per month on daycare for my daughter; \$137 per month for my own health and dental insurance; \$177 per month for my daughter's health insurance; \$130 per month for electricity; \$80 per month on phone services; \$80 per month on cable and internet services; \$500 per month on school loans; \$300 per month on credit card payments; and \$800 per month for child care. In order to manage these monthly expenses, I have borrowed \$20,000 from my father, my mother, and several friends. I have also assumed a debt of \$65,000 in financial aid for school loans.

11. I have always tried to maintain continuous health insurance for myself and my daughter. From June 2004 through January 2006, I was insured through a COBRA plan from my previous employer. From January 2006 through August 2006, I obtained insurance through my husband's coverage with Freelancers Union. Since August 2006, I have been insured through New York University while I pursue my graduate studies.

12. Pascale had been insured through her father's Freelancers Union coverage. However, since he did not work this year, I learned that their coverage lapsed this past summer, which meant that Pascale was uninsured.

13. I explored the option of adding Pascale to my insurance plan through New York University. It would cost \$380 per month to add her dependent coverage, which was too expensive.

14. On August 14, 2007, I went to the Children's Aid Society to seek assistance. I met with Mr. Lance Goller, who is Enrollment Supervisor of the organization's Health Care Access Program. I just need help for this one year until I graduate and can get back on my feet. He shared information with me about the free or low-cost medical care available in New York through Child Health Plus (CHPlus). He told me that the State had expanded eligibility criteria for this subsidized insurance program, and I would qualify for a \$20 monthly premium based on my income level. He filled out an electronic application for me in his computer to quickly enroll Pascale. The following day, on August 15, 2007, I wrote a \$20 check to Empire Blue Cross Blue Shield for Mr. Goller to deliver with my application. He immediately filed and submitted all the paperwork on my behalf.

15. On August 30, 2007, Pascale and I attended a press conference with Governor Eliot Spitzer and Senator Hillary Clinton where they called on President George W. Bush to remove certain rules instituted by his administration that would deny reasonably-priced quality health care to New York children, like my daughter. I was asked to share our story. I explained that I attend school, I work hard, I vote, and I play

by the rules, yet still cannot afford health care for my daughter. We were very excited because Pascale's new coverage through CHPlus would be effective in just two days on September 1, 2007.

16. In early September 2007, I received the CHPlus insurance card for Pascale issued by Empire Blue Cross Blue Shield.

17. A few days later, I received a bill dated September 5, 2007 from Empire Blue Cross Blue Shield indicating \$533.16 as the total amount due for a three-month period of September 1, 2007 through December 1, 2007. That is a \$177.72 full monthly premium, as opposed to the \$20 reduced monthly premium that I anticipated. My heart stopped. I panicked. I didn't know if I could afford this payment. I thought that there might be another letter to follow telling me to "please disregard" this costly bill, and that the \$20 monthly premium had not kicked in yet. But then I connected the dots. From what I could gather, Governor Spitzer wants me to have a \$20 monthly premium; President Bush does not. I figured that President Bush won. I called Mr. Goller at the Children's Aid Society for guidance. He told me that I would need to pay the higher premium of \$177.72 per month if I wanted the health insurance for Pascale. I felt like the rug had been pulled right out from under me.

18. Pascale is currently insured through CHPlus. I submitted a check for \$513.16 on September 21, 2007 to Empire Blue Cross Blue Shield for the remaining balance on the billing period of September 1, 2007 through December 1, 2007. On October 2, 2007, I received another bill for \$177.72 for the billing period of December 1, 2007 through January 1, 2008.

19. It is not easy for me to make these insurance payments. The fact that I will have to pay a much higher monthly premium for Pascale's insurance coverage places financial strain on us. It adds ever more pressure on me to go into further debt to my family and friends. To save money, and pay for Pascale's insurance coverage, we will have to cut out some activities that would be meaningful and fun for her. Health insurance has to come first.

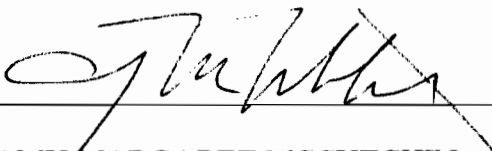
20. Pascale is a healthy little girl, and I want her to stay that way. So it is important for her to have health coverage. Pascale has had the same pediatrician since she was born. I have always kept meticulous records of her growth and development charts (*e.g.* when she learned to say "mamma" and "dadda," drink from a cup, roll over, or jump in place). It is essential to bring Pascale to the doctor for regular check-ups to make sure that she is developing as she should be. On October 16, 2007, we had a routine visit with her pediatrician and she got two immunization shots.

21. On October 27, 2007, Pascale unexpectedly rolled out of bed at her father's house and cut her chin. He called me and said she was fine. But when he dropped off my daughter the next day, I saw that she was not fine and I called our pediatric nurse. She advised me to take Pascale to the emergency room where they could clean and bandage the wound. I was very emotional. The entire taxicab ride to the hospital, I was clutching the CHPlus insurance card in my wallet. I just knew that we would be okay because Pascale had health coverage.

22. If something really terrible happened, and Pascale wasn't covered, I don't know what I would do. One serious illness or episode, and I'm bankrupt. What kind of parent would I be? I have to provide for Pascale, and that responsibility includes healthcare. Her father let her insurance lapse; I refuse to do the same. Having coverage for Pascale makes life manageable so that I'm not worried all the time.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 7, 2007.



AMY MARGARET MCCUTCHIN